

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

ERNESTINE L. COLEMAN,)	
)	
Plaintiff,)	
)	
v.)	CIV. ACT. NO. 1:19-cv-573-ECM
)	(WO)
DOTHAN COUNTRY CLUB,)	
)	
Defendant.)	

MEMORANDUM OPINION and ORDER

On June 23, 2020, the Magistrate Judge entered a Recommendation that summary judgment be entered in favor of the Defendant and against the Plaintiff. (Doc. 22). On July 8, 2020, the Plaintiff filed a response to the Recommendation seeking to voluntarily dismiss this action without prejudice. (Doc. 23). The Defendant opposes a voluntary dismissal without prejudice. (Doc. 24).

“Rule 41(a) of the Federal Rules of Civil Procedure governs a plaintiff’s ability to dismiss an action voluntarily and without prejudice.” *Arias v. Cameron*, 776 F.3d 1262, 1268 (11th Cir. 2015). “A district court enjoys broad discretion in determining whether to allow a voluntary dismissal under Rule 41(a)(2).” *Id.*, at 1268. “The purpose of Rule 41(a)(2) ‘is primarily to prevent voluntary dismissals which unfairly affect the other side, and to permit the imposition of curative conditions.’” *Id.* at 1268–69 (quoting *McCants v. Ford Motor Co., Inc.*, 781 F.2d 855, 856 (11th Cir. 1986) (citation and internal quotation marks omitted)). “While the district court ‘should keep in mind the interests of the defendant, for Rule 41(a)(2) exists chiefly for protection of defendants,’ *id.*, the court

should also weigh the relevant equities and do justice between the parties in each case, imposing such costs and attaching such conditions to the dismissal as are deemed appropriate.” *Id.* (quoting *McCants*, 781 F.2d at 857).

The Plaintiff’s request to dismiss her case without prejudice comes too late. The Magistrate Judge recommended granting the Defendant’s motion for summary judgment on the merits of the Plaintiff’s claims. To allow the Plaintiff to dismiss her claims without prejudice at this time would unfairly prejudice the Defendant and place the Plaintiff’s interests in a far superior and unequitable position over the Defendant’s interests. At this juncture, the Court will not permit the Plaintiff to dismiss her case without prejudice.

The Plaintiff filed no objections to the Recommendation of the Magistrate Judge. After an independent review of the file and upon consideration of the Recommendation, and for good cause, it is

ORDERED as follows:

1. the Recommendation of the Magistrate Judge is ADOPTED;
2. the Defendant’s motion for summary judgment is GRANTED;
3. judgment is entered in favor of the Defendants; and
4. this case is DISMISSED with prejudice.

A separate Final Judgment will be entered.

DONE this 4th day of August, 2020.

/s/ Emily C. Marks
EMILY C. MARKS
CHIEF UNITED STATES DISTRICT JUDGE